

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TAMMY MCCRAE-COLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:21-cv-666
	)	
STARTER HOMES PROGRAMS INC.,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**STARTER HOMES DEFENDANTS' REPLY IN SUPPORT OF THEIR  
MOTION TO SET ASIDE OR VACATE ENTRY OF DEFAULT  
AND FOR LEAVE TO FILE ANSWER**

Defendants Starter Programs Homes, Inc., d/b/a renttoownhomefinder.com and Lending Cloud Homes; Starter Home Investing, Inc., d/b/a renttoownhomefinder.com and Lending Cloud Homes; Xanadu Marketing, Inc., individually (assumed name Apex Page Builder), d/b/a cloudbasedpersonalloans.com and xanadutrucking.com; and Insurance-Reviewed.com (collectively hereinafter, "Starter Homes" or "Starter Homes Defendants") hereby file this reply in support of their motion to set aside the Clerk's entry of default pursuant to Rule 55(c) of the Federal Rules of Civil Procedure.

**ARGUMENT**

Plaintiff's response to the motion filed July 15, 2022 (D.E. #42) stated that she does not object to the requested relief.

Plaintiff's lack of opposition to the motion to set aside entry of default as to the Starter Homes Defendants strengthens the case for granting the motion to set aside. *See, e.g., Am. Gen. Life Ins. Co. v. Brown*, Case No. 3:20-cv-00394-FDW-DSC, 2020 U.S. Dist. LEXIS 217251, at \*3 (Nov. 19, 2020 W.D.N.C.) (granting motion to set aside default in part because "Plaintiff does not object to setting aside the entry of default as to Defaulting Defendants"); *cf. O'Neill v. Country Motors, II, Inc.*, Case No. 3:15-CV-1069 (CSH), 2015 U.S. Dist. LEXIS 167686, at \*9 (D. Conn. Dec. 15, 2015) (stating that plaintiff's consent to setting aside of a default showed that granting motion to set aside would not prejudice plaintiff).

The Starter Homes Defendants otherwise rely on the arguments and authorities contained or cited in their previously filed brief.

Therefore, the Starter Homes Defendants respectfully ask this Court to set aside or otherwise vacate the entry of default entered by the Clerk on June 10, 2022; grant them leave to file their answer to Plaintiff's Second Amended Complaint within five days,<sup>1</sup> or another period of time deemed reasonable by

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<sup>1</sup> As stated in the brief supporting their motion, these Defendants anticipate filing the proposed answer submitted with the motion to set aside, but they would ask leave to make revisions to the document ultimately filed so as to account for any new information they may learn while the motion is pending and to make any needed non-substantive technical corrections (*e.g.*, corrections to grammar, spelling, or formatting).

the Court, after the setting aside of said default; and grant them such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 29th day of July, 2022.

/s/B. Tyler Brooks

B. Tyler Brooks (N.C. Bar No. 37604)

Attorney for Starter Homes Defendants

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### **CERTIFICATE OF COMPLIANCE**

The undersigned counsel certifies that the foregoing brief complies with Local Civil Rule 7.3(d) in that, according to the word count feature of his word processing software, it contains less than 3,125 words, excluding those parts that are allowed to be excluded by the Rule. According to the word count feature, this brief contains 395 words.

/s/B. Tyler Brooks  
B. Tyler Brooks

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was filed electronically on July 29, 2022. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt, including the counsel of record for defendants indicated below. It has also been mailed to the *pro se* plaintiff at the below physical address.

/s/B. Tyler Brooks  
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